MAY 10 2017

SAN DIEGO COASTKEEPER

May 5, 2017

EDCO Disposal Corporation
ATTN: Managing Agent
7844 Armour Street
San Diego, California 92111

Sandra Burr
Registered agent for:
EDCO Disposal Corporation
6670 Federal Blvd.
Lemon Grove, California 91945

EDCO Disposal Corporation
ATTN: Managing Agent
224 S. Las Posas Road
San Marcos, California 92078

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To the Above-Listed Recipients:

I am writing on behalf of San Diego Coastkeeper ("Coastkeeper") regarding violations of the Clean Water Act[1] and California's Storm Water Permit[2] occurring at: 7884 Armour Street, San Diego California 92111 ("EDCO Disposal," "EDCO Facility," or "Facility"). The purpose of this letter is to put EDCO Disposal Corporation ("EDCO") as the owner and/or operator of the EDCO Facility, on notice of the violations of the Storm Water Permit occurring at the EDCO Facility, including, but not limited to, discharges of polluted storm water from the EDCO Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, EDCO is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1). This notice letter ("Notice Letter") is being sent to you as the responsible owner and/or operator of the EDCO Facility, or as the registered agent for the owner and/or operator. This Notice Letter is issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act to inform EDCO that Coastkeeper intends to file a federal enforcement action against EDCO for violations of the Storm Water Permit and the Clean Water Act sixty (60) days from the date of this Notice Letter.

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ, as amended by Order No. 2014-0057-DWQ.

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1. BACKGROUND

1.1. San Diego Coastkeeper.

San Diego Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 2825 Dewey Road, Suite 200, San Diego, California 92106. Founded in 1995, San Diego Coastkeeper has approximately 2,000 members who live and/or recreate in and around San Diego County watersheds.

Coastkeeper is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of San Diego County watersheds. To further these goals, Coastkeeper actively seeks federal and state agency implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of themselves and their members.

Members of Coastkeeper enjoy the waters that the Facility discharges into, including Tecolote Creek, Mission Bay, and the Pacific Ocean (collectively "Receiving Waters"). Members of Coastkeeper use the Receiving Waters to swim, boat, kayak, bird watch, view wildlife, hike, bike, walk, and/or run. Additionally, members of Coastkeeper use the Receiving Waters to engage in scientific study through pollution and habitat monitoring and restoration activities. The discharges of pollutants from the Facility impair each of these uses. Discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of Coastkeeper's members have been, are being, and will continue to be adversely affected by EDCO's failure to comply with the Clean Water Act and the Storm Water Permit.

1.2. The Owner and/or Operator of the EDCO Facility.

Information available to Coastkeeper indicates that EDCO Disposal Corporation is an owner and/or operator of the EDCO Facility and has been since at least 1997. Coastkeeper refers to EDCO Disposal Corporation as the "EDCO Facility Owner and/or Operator." EDCO Disposal Corporation is an active California corporation and its registered agent is: Sandra L. Burr, 6670 Federal Boulevard, Lemon Grove California 91945.

The EDCO Facility Owner and/or Operator has violated and continues to violate the procedural and substantive terms of the Storm Water Permit including, but not limited to, the illegal discharge of pollutants from the EDCO Facility into local surface waters. As explained herein, the EDCO Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

1.3. The EDCO Facility's Storm Water Permit Coverage.

Certain classified facilities that discharge storm water associated with industrial activity are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. Information available to Coastkeeper indicates that the EDCO Facility first

obtained Storm Water Permit coverage in 1997. The Facility submitted its most recent NOI on June 25, 2015 ("2015 NOI"). Coastkeeper obtained the 2015 NOI from California's online Storm Water Multiple Application & Reporting Tracking System ("SMARTs") database. The 2015 NOI lists the Facility Waste Discharge Identification ("WDID") number as 9 37I013187. The 2015 NOI identifies the operator of the EDCO Facility as "EDCO Disposal Corp" and the Facility information as "EDCO Disposal Corp, 7844 Armour St, San Diego CA 92111." The 2015 NOI states that the Facility is 2 acres in size but does not indicate what percent of the site is impervious, or identify the industrial area exposed to storm water. The Storm Water Pollution Prevention Plan obtained by Coastkeeper from the SMARTS database, dated July 2015 and signed on June 30, 2015, ("2015 SWPPP"), and dated December 2016 and signed on December 20, 2016, ("2016 SWPPP"), both state that the operating portion of the Facility is 1.5 acres. The 2016 SWPPP lists the EDCO Facility as approximately 96 percent impervious.

The 2015 NOI lists the Standard Industrial Classification ("SIC") code for the EDCO Facility as 4212 (Local Trucking Without Storage). The 2016 SWPPP lists the SIC code as 4214 (Local Trucking With Storage). The 2015 SWPPP lists the Primary SIC Code as 4214 and the Secondary SIC code as 4231 (Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation). For facilities classified as SIC Code 4212 or 4214, the Storm Water Permit requires permit coverage for "vehicle maintenance shops, equipment cleaning operations, or airport deicing operations." 1997 Storm Water Permit, Attachment 1. The Storm Water Permit regulates the portions of the facility which are used for "vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or other operations identified herein that are associated with industrial activity." 1997 Storm Water Permit Attachment 1; *see also* Attachment 4 (stating that "storm water associated with industrial activity" includes storm water discharges from material handling activities and storage areas for material handling equipment). Coastkeeper puts the EDCO Facility Owner and/or Operator on notice that one or more of these regulated activities is conducted at locations throughout the entire EDCO Facility, and thus the entire Facility requires Storm Water Permit coverage. In addition, even if the regulated industrial activities are not occurring throughout the entire Facility at all times, under the Storm Water Permit's definition of "storm water associated with industrial activities" and explanation of material handling activities, Coastkeeper puts the EDCO Facility Owner and/or Operator on notice that since no best management practices ("BMPs") or other controls exist to separate the storm water flows from portions of the Facility where non-regulated activities may occur from storm water flows from the regulated industrial activities, storm water at the Facility commingles and thus all storm water discharges from the Facility as regulated under the Storm Water Permit.

1.4. Storm Water Pollution and the Waters Receiving EDCO's Discharges.

With every significant rainfall event millions of gallons of polluted storm water originating from industrial operations such as the EDCO Facility pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Polluted discharges from industrial facilities such as the EDCO Facility contain pollutants such as: total suspended solids ("TSS"); specific conductance ("SC"); heavy metals (such as copper, iron, lead, aluminum, and zinc); pathogens, bacteria (such as E. coli), and nutrients; oil and grease ("O&G"), hydraulic fluids, antifreeze, aromatic hydrocarbons, and chlorinated hydrocarbons; solvents and detergents; and paints. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm.[3] Discharges of polluted storm water pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Receiving Waters that the EDCO Facility discharges into are ecologically sensitive areas. Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, the Receiving Waters are still essential habitat for dozens of fish and bird species as well as invertebrate species. The Receiving Waters provide critical migrating waterfowl habitat and nesting sites for sensitive bird species, and generally protects a tremendous diversity of plant and animal species. Storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants harm the special biological significance of the Receiving Waters. Discharges of polluted storm water to the Receiving Waters pose bacterial, carcinogenic, and reproductive threats to the public and adversely affect the aquatic environment.

The polluted discharges from the Facility also harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities, including Coastkeeper's members. The public's use of the Receiving Waters for water contact sports exposes people to bacteria, toxic metals, and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to these waters

The California Regional Water Quality Control Board, San Diego Region, ("Regional Board") issued the *Water Quality Control Plan for the San Diego Basin* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for Tecolote Creek downstream of the point at which it receives storm water discharges from the EDCO Facility include: Non-Contact Water Recreation; Warm Freshwater Habitat; and Wildlife

[3] Health & Saf. Code §§ 25249.5 - 25249.1.

Habitat. Tecolote Creek also has a Potential Beneficial Use as Contact Water Recreation. The Beneficial Uses of Mission Bay are: Water Contact Recreation; Non-Contact Water Recreation; Wildlife Habitat; Rare, Threatened, or Endangered Species; Migration of Aquatic Organisms; Marine Habitat; Estuarine Habitat; Spawning, Reproduction, and/or Early Development; Shellfish Harvesting; Commercial and Sportfishing; and Industrial Service Supply.

According to the 2012 303(d) List of Impaired Water Bodies, Tecolote Creek is impaired for cadmium, copper, indicator bacteria, lead, nitrogen, phosphorous, selenium, toxicity, turbidity, and zinc.[4] Tecolote Creek is designated as a water quality limited segment for indicator bacteria and is subject to a Total Maximum Daily Load for this impairment. Mission Bay near the point of discharge from Tecolote Creek is impaired for eutrophic conditions, lead, enterococcus, fecal coliform, and total coliform.[5] Other areas of Mission Bay are impaired for pathogens (including enterococcus, fecal coliform, and total coliform), copper, toxicity. Polluted discharges from industrial sites, such as the EDCO Facility, contribute to the degradation of these already impaired surface waters and aquatic-dependent wildlife.

2. THE EDCO FACILITY AND RELATED DISCHARGES OF POLLUTANTS

2.1. The EDCO Facility Site Description and Industrial Activities.

The 2015 SWPPP and the 2016 SWPPP state that the primary operations at the EDCO Facility include maintenance operations, tire repair, bin repair and storage, and a truck depot. The 2015 SWPPP and the 2016 SWPPP also state that the EDCO Facility contains administrative offices, maintenance buildings and shops, a truck wash area, and a tire repair area. Information available to Coastkeeper, including the Facility site map that was submitted by the EDCO Facility Owner and/or Operator indicates there is also a hazardous material storage area, a bin washing area, a scale, truck and vehicle parking and storage areas, material and mixed storage areas, and a tire storage area.

Information available to Coastkeeper indicates that the industrial activities at the Facility include but are not limited to: hazardous waste handling and storage; vehicle and equipment maintenance, repair, washing, and storage; tire storage and repair; dust and particulate generating activities; material receiving, shipping and handling; and bin maintenance, repair, washing, and storage.

Information available to Coastkeeper indicates that storage of vehicles and equipment, storage of materials associated with waste storage and transfer, and other industrial activities occur throughout the Facility outdoors, without adequate cover to prevent storm water and non-storm water exposure to pollutant sources, and without secondary containment or other adequate treatment measures to prevent polluted storm water and non-storm water from discharging from the EDCO Facility. Further, information available to Coastkeeper indicates that the pollutants associated with the EDCO Facility have been and continue to be tracked throughout the entire

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[4] 2012 Integrated Report – All Assessed Waters, *available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml.*
[5] *Id.*

Facility where they accumulate at the storm water discharge points and the driveways leading to Armour Street. This results in trucks and vehicles tracking trash, sediment, dirt, O&G, metal particles, and other pollutants off-site. The resulting illegal discharges of polluted storm water and non-storm water impact Coastkeeper's members' use and enjoyment of the Receiving Waters by degrading the quality of those waters, and by posing risks to human health and aquatic life.

2.2. Pollutants and Pollutant Sources Related to the EDCO Facility's Industrial Activities.

The pollutants associated with industrial activities at the Facility include, but are not limited to: pH affecting substances; pathogens including coliform and enterococcus bacteria; toxic metals, such as lead, zinc, arsenic, selenium, silver, and mercury; metals such as magnesium; ammonia; TSS; gasoline and diesel fuels; fuel additives; coolants; antifreeze; trash; detergents; and O&G.

Information available to Coastkeeper indicates that the EDCO Facility Owner and/or Operator has not properly developed and/or implemented the required BMPs to address pollutant sources and contaminated discharges. BMPs are necessary at the EDCO Facility to prevent the exposure of pollutants to precipitation and the subsequent discharge of polluted storm water from the Facility during rain events. Consequently, during rain events storm water carries pollutants from the Facility's vehicle storage area, bin storage area, propane tank storage area, hazardous waste storage area, truck wash area, tire storage area, mixed storage area, material storage area, bin storage area, maintenance shop area, maintenance building area, parking areas, and other areas into the Receiving Waters in violation of the Storm Water Permit.

The EDCO Facility Owner and/or Operator's failure to develop and/or implement required BMPs also results in prohibited discharges of non-storm water in violation of the Storm Water Permit and the Clean Water Act. These illegal discharges of polluted storm and non-storm water negatively impact Coastkeeper's members' use and enjoyment of the Receiving Waters by degrading the quality of the Receiving Waters and by posing risks to human health and aquatic life.

2.3. EDCO Facility Storm Water Flow and Discharge Locations.

The EDCO Facility is bordered by Armour Street to the south, by businesses that front on Balboa Avenue to the north, and by businesses to the west toward Convoy Street. The points of egress/ingress to the Facility include two (2) driveways leading to Armour Street. Section 2 in both the 2015 SWPPP and the 2016 SWPPP state that the majority of storm water flows south towards Armour Street, and that BioClean flume filters are installed at two locations along the southern property to filter storm water. Storm water drainage from the maintenance shop at the northern part of the Facility discharges off-site towards Balboa Street. Section 2 of both SWPPPs discuss the east and west driveways along Armour Street and state a BioSorb media filter is located along the west driveway, and that a berm exists at the east driveway, which is not identified on the Facility site map.

Section 5.3 of the 2015 SWPPP states that there are three (3) drainage areas at the Facility and that industrial activity occurs in all these areas. Section 5.3 of the 2016 SWPPP states that there are two (2) drainage areas at the Facility and that industrial activity occurs in all these areas. Discharges from the Facility enter San Diego City's municipal separate storm sewer system ("MS4"), which discharges to the Receiving Waters.

Information available to Coastkeeper, including direct observations, indicates discharges associated with industrial activities occur throughout the Facility including at both driveways leading to Armour Street. The Facility Site Map (Figure 2 of the 2016 SWPPP) indicates no samples are taken at these discharge points.

3. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

In California, any person who discharges storm water associated with certain industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which Coastkeeper refers to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2014-0057-DWQ the Storm Water Permit was reissued, which Coastkeeper refers to as the "2015 Permit." As explained below, the 2015 Permit includes terms that are as stringent or more stringent than the 1997 Permit. Accordingly, the EDCO Facility Owner and/or Operator is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115,121-22 (D.N.J. 1988) ("[l]imitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

3.1. Discharges of Polluted Storm Water from the EDCO Facility in Violation of Storm Water Permit Effluent Limitation.

Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve Best Available Technology Economically Achievable ("BAT") for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants. The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V(A).

Information available to Coastkeeper, including its review of publicly available information and observations, indicates BMPs that achieve BAT/BCT have not been developed

and/or implemented at the Facility. Consistent with Coastkeeper's review of available information and direct observations, the analytical results of storm water sampling at the Facility demonstrate that the EDCO Facility Owner and/or Operator has failed and continues to fail to develop and/or implement BAT/BCT, as required. Specifically, Facility discharges have exceeded EPA Benchmarks for numerous pollutants. EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit.[6] The table attached hereto as Exhibit 1 includes sample results of storm water discharges collected at the Facility. As documented in Exhibit 1, the Facility consistently discharges storm water containing levels of pollutants that far exceed EPA Benchmarks indicating that the EDCO Facility Owner and/or Operator has failed and continues to fail to develop and/or implement BMPs at the Facility as required to achieve compliance with the BAT/BCT standards. For example, the EPA Benchmark for TSS is 100 mg/L. *See* Exhibit 1. A storm water sample collected from the Facility on May 8, 2015, was reported as 1,370 mg/L and exceeded the EPA Benchmark by over thirteen (13) times. *Id.* Furthermore, the EPA Benchmark for O&G is 15 mg/L, and a storm water sample collected from the Facility on January 5, 2016, was reported as 41 mg/L, exceeding the EPA Benchmark by nearly three (3) times. *Id.* The January 5, 2016, sample also demonstrated that the Facility's storm water discharge contained 500 mg/L of TSS, above the EPA Benchmark of 100, and had a pH at 4.1 SU, outside of the EPA Benchmark range for pH of 6.0-9.0 SU. *Id.*

Coastkeeper puts the EDCO Facility Owner and/or Operator on notice that the Storm Water Permit Effluent Limitation is violated each time storm water discharges from the Facility. *See, e.g.*, Exhibit 2 (dates of significant rain events).[7] These discharge violations are ongoing and will continue every time the EDCO Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Each time the EDCO Facility Owner and/or Operator discharges polluted storm water in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The EDCO Facility Owner and/or Operator has been in violation since May 5, 2012 and Coastkeeper will update the dates of violations when additional information and data become available. The EDCO Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 5, 2012.

Further, Coastkeeper puts the EDCO Facility Owner and/or Operator on notice that the 2015 Permit Effluent Limitation V(A) is an independent requirement that must be complied with,

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[6] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009, Fact Sheet at 106; *see also*, 65 Federal Register 64839 (2000).

[7] A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in discharges at a typical industrial facility. Dates of significant rain events are measured at the San Diego National Weather Service-Lindbergh Field rain gauge. Coastkeeper will include additional dates of significant rain events when that information becomes available.

and that carrying out the iterative process triggered by exceedances of the Numeric Action Levels ("NALs") listed at Table 2 of the 2015 Permit does not amount to compliance with Effluent Limitation V.A. Exceedances of the NALs demonstrate that a facility (such as the EDCO Facility) is among the worst performing facilities in the State. Moreover, the NALs do not represent technology-based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT. Thus, even if the EDCO Facility Owner and/or Operator is engaged in the NAL iterative process and submitted an Exceedance Response Action Plan(s) under Section XII of the 2015 Permit, the violations of Effluent Limitation V(A) described in this Notice Letter are ongoing and continuous.

3.2. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Receiving Water Limitations.

Receiving Water Limitation C(2) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").[8] The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI.A. Discharges that contain pollutants in excess of applicable WQS violate the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(2); 2015 Permit, Receiving Water Limitation VI(A).

Receiving Water Limitation C(1) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI(B). Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of the Storm Water Permit Receiving Water Limitation. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI(B).

Storm water sampling at the Facility demonstrates that discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS. For example, the CTR for zinc for freshwater is 0.12 mg/L. A storm water discharge sample taken on March 26, 2014, was reported at 1.02 mg/L for zinc, exceeding the WQS by more than eight (8) times. *See* Exhibit 1. Another sample taken on April 1, 2014 was reported as 0.48 mg/L for zinc, an exceedance of four (4) times the CTR. *Id.* Despite these significant exceedances, the EDCO Facility Owner and/or Operator stopped analyzing storm water discharges for zinc.

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[8] The Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and water quality objectives in the Basin Plan. Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

As explained herein, the Receiving Waters are impaired, and thus unable to support the designated Beneficial Uses, for some of the same pollutants discharging from the Facility, including zinc. Information available to Coastkeeper indicates that the Facility's storm water discharges contain elevated concentrations of these pollutants, such as zinc, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. *See, e.g.,* Exhibit 1. Discharges of elevated concentrations of pollutants in the storm water from the Facility also adversely impact human health. These harmful discharges from the Facility are violations of the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI(B).

Coastkeeper puts the EDCO Facility Owner and/or Operator on notice that Storm Water Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. *See, e.g.,* Exhibit 2. Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS, it is a separate and distinct violation of Receiving Water Limitation C(2) of the 1997 Permit, Receiving Water Limitation VI(A) of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges of storm water from the Facility adversely impact human health or the environment, it is a separate and distinct violation of Receiving Water Limitation C(1) of the 1997 Permit, Receiving Water Limitation VI(B) of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These discharge violations are ongoing and will continue every time contaminated storm water is discharged in violation of the Storm Water Permit Receiving Water Limitations. The EDCO Facility Owner and/or Operator has been in violation since May 5, 2012 and Coastkeeper will update the dates of violation when additional information and data becomes available. The EDCO Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 5, 2012.

Further, Coastkeeper puts the EDCO Facility Owner and/or Operator on notice that Receiving Water Limitations are independent requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Receiving Water Limitations. The NALs do not represent water quality based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of a WQS, or is causing adverse impacts to human health or the environment. Thus, even if the EDCO Facility Owner and/or Operator is engaged in the NAL iterative process and submitted an Exceedance Response Action Plan(s) under Section XII. of the 2015 Permit, the violations of the Receiving Water Limitations described in this Notice Letter are ongoing and continuous.

3.3. *Failure* to Develop, Implement, and/or Revise an *Adequate* Storm Water Pollution Prevention Plan.

The Storm Water Permit requires permittees to develop and implement a Storm Water Pollution Prevention Plan prior to conducting industrial activities. A permittee has an ongoing obligation to revise the SWPPP as necessary to ensure compliance with the Storm Water Permit. The specific SWPPP requirements of the 1997 Permit and the 2015 Permit are set out below.

3.3.1. 1997 Permit SWPPP Requirements.

Section A(1) and Provision E(2) of the 1997 Permit require discharges to have developed and implemented a SWPPP prior to beginning industrial activities that meets all of the requirements of the 1997 Permit. The objectives of the 1997 Permit SWPPP requirements are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* 1997 Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9) of the 1997 Permit, and must be revised as necessary to ensure compliance with the Storm Water Permit. 1997 Permit, Sections A(9) and (10). Sections A(3) – A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the facility and its industrial activities (*see* 1997 Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* 1997 Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-storm water discharges and their sources, and locations where soil erosion may occur (*see* 1997 Permit, Section A(6)).

Sections A(7) and A(8) of the 1997 Permit require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

3.3.2. 2015 Permit SWPPP Requirements.

As with the SWPPP requirements of the 1997 Permit, Sections X(A) - (H) of the 2015 Permit require dischargers to have developed and implemented a SWPPP that meets all of the requirements of the 2015 Permit. *See also* 2015 Permit, Appendix 1. The objective of the SWPPP requirements are still to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* 2015 Permit, Section X(C).

The SWPPP must include, among other things and consistent with the 1997 Permit, a narrative description and summary of all industrial activity, potential sources of pollutants, and potential pollutants; a site map indicating the storm water conveyance system, points of discharge, direction of flow, areas of actual and potential pollutant contact, nearby water bodies, and pollutant control measures; a description of the BMPs developed and implemented to reduce

or prevent pollutants in storm water discharges and authorized non-storm water discharges necessary to comply with the Storm Water Permit; the identification of non-storm water discharges and the elimination of unauthorized non-storm water discharges; the location where significant materials are being shipped, stored, received, and handled, as well as the typical quantities of such materials and the frequency with which they are handled; a description of dust and particulate-generating activities; and the identification of individuals and their current responsibilities for developing and implementing the SWPPP. 2015 Permit, Section X(A)-(H).

Further, the 2015 Permit requires the discharger to evaluate the SWPPP on an annual basis and revise it as necessary to ensure compliance with the Storm Water Permit. 2015 Permit, Section X(A)-(B). Like the 1997 Permit, the 2015 Permit also requires that the discharger conduct an annual comprehensive site compliance evaluation that includes a review of all visual observation records, inspection reports and sampling and analysis results; a visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering the drainage system; a review and evaluation of all BMPs to determine whether the BMPs are adequate, properly implemented and maintained, or whether additional BMPs are needed; and a visual inspection of equipment needed to implement the SWPPP. 2015 Permit, Section X(B) and Section XV.

3.3.3. The EDCO Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit SWPPP Requirements.

The EDCO Facility Owner and/or Operator has conducted and continues to conduct operations at the Facility with an inadequately developed and/or implemented SWPPP. For example, information available to Coastkeeper indicates that the Facility site map has never included all the information required by the Storm Water Permit, including, but not limited to, all storm water discharge locations, all industrial activity and associated pollutant sources, all BMPs, and/or portions of the drainage area impacted by run-on from surrounding areas.

The EDCO Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutants and pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. The EDCO Facility Owner and/or Operator has also failed to adequately conduct a pollutant source assessment and has not therefore identified pollutants and pollutant sources that require BMP development and implementation. The SWPPP inadequacies are documented by the continuous and ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQS. *See, e.g.,* Exhibit 1.

The EDCO Facility Owner and/or Operator has also failed to revise the Facility's SWPPP to ensure compliance with the Storm Water Permit. Despite the significant concentrations of pollutants in the Facility's storm water discharges each year, information available to Coastkeeper indicates that the Facility SWPPP has largely remained the same throughout the EDCO Facility Owner and/or Operator's industrial operations at the Facility, and has not been adequately revised to include additional BMPs to eliminate or reduce these pollutants, as required by the Storm Water Permit.

Moreover, the Facility's SWPPPs have not substantively changed even after the Facility entered Level 1 status for discharging storm water with levels of pollutants the exceed the 2015 Permit's NALs.[9] The 2015 Permit requires revisions to SWPPPs to identify what BMPs will be improved, and/or if additional BMPs must be developed and implemented to prevent further exceedances of the NALs, or otherwise comply with the Storm Water Permit. *See* 2015 Permit, Section XII(C). The EDCO Facility 2015 SWPPP (developed prior to the Facility entering Level 1 status) is essentially identical to the 2016 SWPPP, which was submitted as a "revised" SWPPP after the Facility entered Level 1 status. For example, the 2015 SWPPP section titled "Identification of Additional BMPs" states that the EDCO Owner and/or Operator "will consider identifying additional BMPs…if any monitoring results indicate significant increases in concentrations of constituents of concern." 2015 SWPPP, Section 5.2. The 2016 SWPPP contains this identical language despite the repeated, continuous, and numerous ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQS, as well as NALs. *See* 2016 SWPPP, Section 5.2; *see also* Exhibit 1 (table of Facility sample results compared to EPA Benchmarks and WQS). Moreover, the SWPPP was not revised to require any additional BMPs to prevent future NAL exceedances, rather it simply proposes modifications to existing BMPs to "minimize the risk for future NAL Exceedances." *See* 2016 SWPPP at Section 6.2.

Accordingly, the EDCO Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise a SWPPP, in violation of SWPPP requirements of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented SWPPP, and/or with an improperly revised SWPPP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The EDCO Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit SWPPP requirements since at least May 5, 2012. These violations are ongoing, and Coastkeeper will include additional violations when information becomes available. The EDCO Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 5, 2012.

3.4. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.

The Storm Water Permit requires permittees to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting industrial activities. A permittee has an ongoing obligation to revise the M&RP as necessary to ensure compliance with the Storm Water Permit. The specific M&RP requirements of the 1997 Permit and the 2015 Permit are set out below.

[9] Explanation of how a permittee enters Level 1 status is set forth below in Section 3.7.

3.4.1. 1997 Permit M&RP Requirements.

Section B(1) and Provision E(3) of the 1997 Permit require facility operators to develop and implement an adequate M&RP prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 1997 Permit, Section B(2).

The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.* Sections B(3) – B(16) of the 1997 Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the Wet Season.[10]

Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, O&G, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. *See* 1997 Permit, Sections B(3) and B(4). Dischargers must revise the SWPPP in response to these observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4). Sections B(5) and B(7) of the 1997 Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged.

Sections B(5) and B(7) of the 1997 Storm Water Permit require dischargers to visually observe and collect samples of storm water from all drainage areas and discharge locations where storm water is discharged. Under Section B(5) of the Storm Water Permit, a permittee is required to collect at least two (2) samples from each discharge location at the facility during the Wet Season. Storm water samples must be analyzed for TSS, pH, SC, total organic carbon or O&G, and other pollutants that are likely to be present in the facility's discharges in significant quantities. *See* Storm Water Permit, Section B(5)(c). The Storm Water Permit requires facilities classified as SIC code 4953, such as the EDCO Facility, to also analyze storm water samples for iron. *Id.*; *see also* 1997 Permit, Table D, Sector L. Finally, permittees must identify and use analytical method detection limits sufficient to determine compliance with the 1997 Permit's monitoring program objectives and specifically, the Effluent Limitations and Receiving Water Limitations. 1997 Permit, Section B(10)(iii).

[10] Wet Season is a term from the 1997 Permit and is defined as October 1 through May 31. 1997 Permit, Section B(4)(a).

3.4.2. 2015 Permit M&RP Requirements.

As with the 1997 M&RP requirements, Sections X(I) and XI(A)-XI(D) of the 2015 Permit require facility operators to develop and implement an adequate M&RP that meets all of the requirements of the 2015 Permit. The objective of the M&RP is still to detect and measure the concentrations of pollutants in a facility's discharge, and to ensure compliance with the 2015 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 2015 Permit, Section XI. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.*

As an *increase* in observation frequency to the 1997 Permit, Section XI(A) of the 2015 Permit requires all visual observations at least once each month, and at the same time sampling occurs at a discharge location. Observations must document the presence of any floating and suspended material, O&G, discolorations, turbidity, odor and the source of any pollutants. 2015 Permit, Section XI(A)(2). Dischargers must document and maintain records of observations, observation dates, locations observed, and responses taken to reduce or prevent pollutants in storm water discharges. 2015 Permit, Section XI(A)(3).

As an *increase* in frequency of monitoring requirements, Section XI(B)(1-5) of the 2015 Permit requires permittees to collect storm water discharge samples from a qualifying storm event[11] as follows: 1) from each drainage area at all discharge locations, 2) from two (2) storm events within the first half of each Reporting Year[12] (July 1 to December 31), 3) from two (2) storm events within the second half of each Reporting Year (January 1 to June 30), and 4) within four hours of the start of a discharge, or the start of facility operations if the qualifying storm event occurs within the previous 12-hour period. The 2015 Permit requires, among other things, that permittees must submit *all sampling* and analytical results for all samples via SMARTS within 30 days of obtaining all results for each sampling event. 2015 Permit, Section XI(B)(11) (emphasis added).

The parameters to be analyzed are also consistent with the 1997 Permit, however, the 2015 Permit no longer requires SC to be analyzed. Specifically, Section XI(B)(6)(a)-(b) of the 2015 Permit requires permittees to analyze samples for TSS, O&G, and pH. Section XI(B)(6)(c)-(d) of the 2015 Permit requires permittees to analyze samples for pollutants associated with industrial activities. Section XI(B)(6)(e) of the 2015 Permit also requires dischargers to analyze storm water samples for additional applicable industrial parameters related to receiving waters with a Clean Water Act Section 303(d) listed impairment(s), or approved Total Maximum Daily Loads. Finally, permittees must identify and use analytical method detection limits sufficient to determine compliance with the 2015 Permit, including the Effluent Limitations, Receiving Water Limitations. *See* 2015 Permit, Section XI(B)(6)(e). "Test methods with lower detection limits

[11] The 2015 Permit defines a qualifying storm event as one that produces a discharge for at least one drainage area, and is preceded by 48-hours with no discharge from any drainage areas. 2015 Permit, Section XI(B)(1).
[12] A Reporting Year replaced the term "Wet Season" from the 1997 Permit, and is defined as July 1 through June 30. 2015 Permit, Findings ¶ 62(b).

may be necessary when discharging to receiving waters with 303(d) listed impairments or TMDLs." *Id.* at Section XI(B)(6)(e).

3.4.3. The EDCO Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit M&RP Requirements.

The EDCO Facility Owner and/or Operator has been and continues to conduct operations at the Facility with an inadequately developed, implemented, and/or revised M&RP. For example, the EDCO Facility Owner and/or Operator has failed and continues to fail to conduct sampling for all parameters as required by the Storm Water Permit. In addition, method detection limits used by the EDCO Facility Owner and/or Operator were not always low enough to determine compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. *See e.g.* Exhibit 1 (December 12, 2014 sampling for arsenic and silver, and May 8, 2015 sampling detection limit for silver).

Lab samples taken at the Facility from March 2014 when the EDCO Facility Owner and/or Operator did sample for a larger suite of parameters showed numerous pollutants to be well above applicable WQSs and EPA Benchmarks. For example, a sample taken in March 2014 was reported as 1.02 mg/L for zinc, an exceedance of eight and a half times (8.5) the CTR. Another sample taken in April 2014 was reported as 0.48 mg/L for zinc, an exceedance of four (4) times the CTR. The 2016 SWPPP identifies "metals" on Page 19, section 4.1.2, as a pollutant on site, but no metals are currently sampled. Additionally, Tecolote Creek is 303(d) listed as impaired for zinc (among other pollutants), and the EPA sector-specific fact sheets for Sector P which includes the activities at the Facility lists "heavy metals" as pollutants commonly associated with such activities. Information available to Coastkeeper indicates the EDCO Facility Owner and/or Operator was on notice that numerous additional pollutant parameters were present on site, including 303(d) impaired parameters such as zinc, at numbers far exceeding WQS and EPA Benchmarks, but the EDCO Facility Owner and/or Operator failed to sample for and/or report these pollutants after the March and April 2014 sampling events. In fact, Section 5.4 of the 2016 SWPPP indicates, "only standard parameters required for all industrial facilities will be analyzed" (pH, O&G, and TSS).

The EDCO Facility Owner and/or Operator has failed to adequately develop and/or implement, or revise the M&RP, to indicate toxic chemicals and other pollutants that are likely to be present in storm water discharges. *See* 1997 Permit Section B(5)(c) and 2015 Permit Section X(G)(2). Despite samples taken years ago, in March and April 2014, indicating high levels of toxic metals and other pollutants, the EDCO Facility Owner and/or Operator failed to amend the SWPPP to indicate the presence of these additional pollutants. In fact, although both the 2015 M&RP and the 2016 M&RP identify metals as being associated with industrial activity, and the impairment of the Receiving Waters, both state that, "only standard parameters required for all industrial facilities will be analyzed" (pH, O&G, and TSS). Thus, the EDCO Facility Owner and/or Operator has failed and continues to fail to develop an M&RP that requires the EDCO Facility Owner and/or Operator to analyze storm water discharges from the Facility for all required parameters. *See* Section B(5)(c) of the 1997 Permit and Section XI(B)(6) of the 2015 Permit.

In addition, the EDCO Facility Owner and/or Operator has failed and continue to fail to develop and/or implement an M&RP that requires the Facility Owner and/or Operator to collect storm water samples from all discharge locations. While Section B(7)(d) of the 1997 Permit and Section XI(C)(4) of the 2015 Permit allow permittees to reduce the number of locations to be sampled, there is no indication that the EDCO Facility Owner and/or Operator has complied with the requirements of Section B(7)(d) of the 1997 Permit or Section XI(C)(4) to justify sampling a reduced number of discharge locations at the Facility. Specifically, information available to Coastkeeper, including direct observations, indicates there are at least three (3) discharge points from the Facility, including the ingress/egress ways and parking lots, yet only a single discharge point is sampled at the southwestern most corner of the site.

Finally, the Storm Water Permit requires dischargers to conduct visual observations of storm water discharges, of authorized and unauthorized non-storm water discharges, and of BMPs. Based on information available to Coastkeeper, including Annual Reports, the EDCO Facility Owner and/or Operator fails to consistently, and/or adequately, conduct the required discharge observations and monitoring of BMPs.

Accordingly, the EDCO Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise a M&RP, in violation of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented M&RP, or with an improperly revised M&RP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The EDCO Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit M&RP requirements since at least May 5, 2012. These violations are ongoing, and Coastkeeper will include additional violations when information becomes available. The EDCO Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 5, 2012.

3.5. Failure to Comply with the Storm Water Permit's Reporting Requirements.

Section B(14) of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13). The 2015 Permit includes the same annual reporting requirements but changed the Annual Report due date to July 15. *See* 2015 Permit, Section XVI.

The EDCO Facility Owner and/or Operator has failed and continues to fail to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, in each Annual Report since the filing of the 2011-2012 Annual Report, the EDCO Facility Owner and/or Operator certifies that: (1) a complete Annual Comprehensive Site Compliance Evaluation was conducted as required by the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water

Permit, or will otherwise be revised to achieve compliance. However, information available to Coastkeeper indicates that these certifications are erroneous. For example, as discussed above, storm water samples collected from the Facility contain concentrations of pollutants above EPA Benchmarks and WQSs, thus demonstrating that the Facility BMPs do not adequately address existing potential pollutant sources. Further, as mentioned above the Facility's SWPPP does not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

Furthermore, information available to Coastkeeper also shows that in December of 2014 storm water samples collected from the Facility were analyzed for several pollutants associated with the Facility's industrial operations, but lab reports submitted to SMARTS were redacted and results were not reported to the regulatory agency as required by the Storm Water Permit. For example, on December 12, 2014, the EDCO Facility Owner and/or Operator analyzed the Facility's storm water discharges for numerous metals and pollutants associated with its industrial operations, but on the lab report titled "Title 22 Metals Results" almost all of the sample results were redacted.[13] The EDCO Facility Owner and/or Operator redacted sample results again in its May 8, 2015, sample collection lab report before submitting the report to the regulatory agency. Information available to Coastkeeper shows that again in July of 2015 lab tests analyzed Facility storm water samples for Facility pollutants such as COD, electrical conductivity, cyanide, ammonia, arsenic, iron, lead, magnesium, selenium, silver and mercury but the EDCO Facility Owner and/or Operator redacted the lab reports before submitting them to the regulatory agency.

In addition, a facility operator must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 4) steps taken or planned to reduce and prevent recurrence of the noncompliance. 1997 Permit, Section C(11)(d); 2015 Permit, Section XVI(B)(2). The EDCO Facility Owner and/or Operator has not accurately reported non-compliance, as required. Rather, for example, as reported in the 2012-2013 Annual Report, the EDCO Facility Owner and/or Operator did not conduct any monthly wet weather visual observations despite the fact that discharges occurred.

Given that the EDCO Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit, the EDCO Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the EDCO Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The EDCO Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least May 5, 2012. These violations are ongoing, and Coastkeeper will include additional violations when information becomes available. The EDCO

[13] Coastkeeper obtained the lab reports from the SMARTS database.

Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 5, 2012.

3.6. Failure to Comply with Level 1 Exceedance Response Action Requirements.

When the 2015 Permit became effective on July 1, 2015, all permittees were in "Baseline status" for all parameters listed in Table 2 of the 2015 Permit. *See* 2015 Permit, Section XII(B). A permittee's Baseline status for any given parameter changes to "Level 1 status" if sampling results indicate an NAL exceedance for that same parameter. *See id.*, Section XII(C) (there are annual average NALs, and instantaneous maximum NALs). Level 1 status commences on July 1 following the Reporting Year during which the exceedance(s) occurred, and the discharger enters the Exceedance Response Action ("ERA") process. *See id.* The ERA process requires the discharge to conduct an evaluation, with the assistance of a Qualified Industrial Storm Water Practitioner ("QISP"), of the industrial pollutant sources at the facility that are or may be related to the NAL exceedance(s) by October 1 following commencement of Level 1 status. *See id.* at Section XII(C)(1)(a)-(b). The evaluation must include the identification of the "corresponding BMPs in the SWPPP and any additional BMPs and SWPPP revisions necessary to prevent future NAL exceedances and to comply with the requirements of the General Permit." *See id.* at Section XII(C)(1)(c). "Although the evaluation may focus on the drainage areas where the NAL exceedance(s) occurred, all drainage areas shall be evaluated." *Id.*

Based upon this Level 1 status evaluation, the permittee is required to, as soon as practicable but no later than January 1 following commencement of Level 1 status, prepare a Level 1 ERA Report. *See id.*, Section XII(C)(2). The Level 1 Report must be prepared by a QISP and include a summary of the Level 1 ERA evaluation and a detailed description of the SWPPP revisions and any additional BMPs for each parameter that exceeded an NAL. *See id.*, Section XII(C)(2)(a)(i)-(ii). The SWPPP revisions and additional BMP development and implementation must also be completed by January 1, and the Level 1 status discharger is required to submit via SMARTS the Level 1 ERA Report certifying the evaluation has been conducted, and SWPPP revisions and BMP implementation have been completed. *Id.* the certification also requires the QISP's identification number, name, and contact information (telephone number, e-mail address) no later than January 1 following commencement of Level 1 status. *See id.* at Section XII(C)(2)(a)(iii). A permittee's Level 1 status for a parameter will return to Baseline status if a Level 1 ERA report has been completed, all identified additional BMPs have been implemented, and results from four (4) consecutive qualified storm events that were sampled subsequent to BMP implementation indicate no additional NAL exceedances for that parameter. *See id.* at Section XII(C)(2)(b). A permittee will enter a Level 2 status if there is an NAL exceedances of the same parameter when the discharger is in Level 1 status. *See id.* at Section D.

The EDCO Facility Owner and/or Operator is in Level 1 status for pH, TSS and O&G based on NAL exceedances during the 2015-2016 Reporting Year. For example, the Facility's annual average for TSS during the 2015-2016 Reporting Year was 207 mg/L, more than double the annual NAL for TSS of 100 mg/L. *See* Exhibit 1; *see also* 2015 Permit, Table 2. Furthermore, pH values were reported at 4.9 and 5.09 in September 2015, and 4.1 in January 2016, which exceeds the instantaneous maximum NAL range of 6.0-9.0 for pH. *Id.* The Facility

discharged storm water with O&G of 26.9 mg/L, and 41 mg/L during the 2015/2016 reporting Year, putting it in Level 1 for O&G as well.

Accordingly, the EDCO Facility Owner and/or Operator submitted three (3) Level 1 ERA Reports, to cover multiple industrial facilities that it owns and/or operates. One of the multi-facility Level 1 ERA Reports is titled: "Consolidated Exceedance Response Action Level 1 Report EDCO Material Recovery Facilities ("EDCO MRF") compliance Group Parameter: Total Suspended Solids San Diego County, California" dated December 27, 2016 ("TSS Level 1 ERA Report").[14] However, no site-specific Level 1 status evaluation was submitted for the Facility that complies with the Storm Water Permit in any of the ERA consolidated reports. Thus, the EDCO Facility Owner and/or Operator has failed and continues to fail to comply with Section XII of the 2015 Permit.

In each Level 1 ERA Report the discussion of NAL exceedances for TSS, O&G, and pH at the Facility is inadequate. For example, rather than conducting an evaluation to identify the BMPs in the SWPPP at the Facility that correspond to the NAL exceedances at the Facility, the Consolidated Report for pH notes that, despite three separate low readings for pH within the Reporting Year, "it is unclear if these results were accurate measurements of pH or may be attribute to errors in field screening methods," and concludes, "no specific BMPs to control pH are proposed." pH Level 1 ERA Report, page 3. Accordingly, the Level 1 ERA Report does not meet the requirements of Section XII(C) of the 2015 Permit. The TSS Level 1 ERA Report and the O&G Level 1 ERA Report contain the same inadequacies, and lacks the required detail and site-specific evaluation and analysis required by the 2015 Permit.

The Level 1 ERA evaluation does not appear to have been conducted to identify BMPs needed to *prevent* future NAL exceedances as required by the Storm Water Permit. For example, the TSS Level 1 ERA Report states that the evaluation was conducted to "improve the management of TSS and reduce the potential for TSS to be mobilized in storm water runoff." TSS Level 1 ERA Report at 3. The 2016 SWPPP, supposedly revised to address the NAL exceedances of O&G, TSS and pH, says BMPs have been modified to "minimize the risk for future NAL exceedances." *See* 2016 SWPPP at Section 6.2. The EDCO Facility Owner and/or Operator has failed and continues to fail to conduct a Level 1 status evaluation to identify additional BMPs and SWPPP revisions necessary to prevent future NAL exceedances at the Facility, and has not submitted an adequate Level 1 ERA Report. The EDCO Facility Owner and/or Operator has also failed to submit a revised SWPPP detailing necessary additional BMPs to prevent future NAL exceedances and to come into compliance with the Storm Water Permit Effluent Limitations and Receiving Water Limitations.

The EDCO Facility Owner and/or Operator has failed and continues to fail to conduct an adequate Level 1 status evaluation and has also failed to submit a Level 1 ERA Report that complies with the Storm Water Permit. As such, the EDCO Facility Owner and/or Operator is in

[14] The other two ERA Reports are titled "Consolidated Exceedance Response Action Level 1 Report EDCO Truck Maintenance Compliance Group, Parameter: pH, San Diego County, California" (referred to as the pH Level 1 ERA Report") and "Consolidated Exceedance Response Action Level 1 Report EDCO Truck Maintenance Compliance Group, Parameter: Oil and Grease, San Diego County, California" (referred to as the TSS Level 1 ERA Report").

daily violation of the Storm Water Permit. Every day the EDCO Facility Owner and/or Operator conducts operations at the Facility without an adequate Level 1 status evaluation, and/or without submitting an adequate Level 1 ERA Report is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The EDCO Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's Level 1 status ERA evaluation requirements every day since October 1, 2016. The EDCO Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit for failing to submit an adequate Level 1 ERA Report every day since January 1, 2017. These violations are ongoing, and Coastkeeper will include additional violations when information becomes available. The EDCO Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act and Storm Water Permit's Level 1 status ERA evaluation requirements every day since October 1, 2016. The EDCO Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act and Storm Water Permit's Level 1 ERA Report requirements every day since January 1, 2017.

4. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of $37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009 and $51,570.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, Coastkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Coastkeeper will seek to recover its litigation costs, including attorneys' and experts' fees.

5. CONCLUSION

Coastkeeper is willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Coastkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the EDCO Facility Owner and/or Operator's violations of the Storm Water Permit.

If you wish to pursue settlement discussions please contact Coastkeeper's legal counsel:

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Exhibit 1

Stormwater Sampling Data for EDCO Armour Street Facility

Date/Time of Sample Collection	Sample Location	Parameter	Result Qualifier	Result	Units	Benchmark	Magnitude of Exceedance	WQO	Magnitude of Exceedance
2011/2012 WET SEASON									
12/13/11 6:42	Armour Shop	Electrical Conductivity @ 25 Deg. C	=	308	umhos/cm	200	1.54	None	
12/13/11 6:42	Armour Shop	Oil and Grease	=	10.7	mg/L	15		None	
12/13/11 6:42	Armour Shop	Total Suspended Solids (TSS)	=	143	mg/L	100	1.43	None	
12/13/11 6:42	Armour Shop	pH	=	6.73	SU	6.0-9.0		6.5-8.5	
1/23/12 7:15	Armour Shop	Electrical Conductivity @ 25 Deg. C	=	481	umhos/cm	200	2.41	None	
1/23/12 7:15	Armour Shop	Oil and Grease	=	40.3	mg/L	15	2.69	None	
1/23/12 7:15	Armour Shop	Total Suspended Solids (TSS)	=	156	mg/L	100	1.56	None	
1/23/12 7:15	Armour Shop	pH	=	6.63	SU	6.0-9.0		6.5-8.5	
2012/2013 WET SEASON									
1/26/13 7:27	Armour Shop	Electrical Conductivity @ 25 Deg. C	=	190	umhos/cm	200		None	
1/26/13 7:27	Armour Shop	Oil and Grease	=	26.3	mg/L	15	1.75	None	
1/26/13 7:27	Armour Shop	Total Suspended Solids (TSS)	=	170	mg/L	100	1.7	None	
1/26/13 7:27	Armour Shop	pH	=	6.33	SU	6.0-9.0		6.5-8.5	
2/18/13 7:21	Armour Shop	Electrical Conductivity @ 25 Deg. C	=	91	umhos/cm	200		None	
2/18/13 7:21	Armour Shop	Oil and Grease	<	1	mg/L	15		None	
2/18/13 7:21	Armour Shop	Total Suspended Solids (TSS)	=	67	mg/L	100		None	
2/18/13 7:21	Armour Shop	pH	=	6.51	SU	6.0-9.0		6.5-8.5	
2013/2014 WET SEASON									
3/26/14 6:45	AR #1	Electrical Conductivity @ 25 Deg. C	=	1,950	umhos/cm	200	9.75	None	
3/26/14 6:45	AR #1	Oil and Grease	=	33.2	mg/L	15	2.21	None	
3/26/14 6:45	AR #1	Total Suspended Solids (TSS)	=	366	mg/L	100	3.66	None	
3/26/14 6:45	AR #1	pH	=	7.58	SU	6.0-9.0		6.5-8.5	
3/26/14 6:45	AR #1	Biological Oxygen Demand		369	mg/L	30	12.30	None	
3/26/14 6:45	AR #1	Chemical Oxygen Demand		3,520	mg/L	120	29.33	None	
3/26/14 6:45	AR #1	Ammonia, Total (as N)		3.9	mg/L	2.14	1.82	None	
3/26/14 6:45	AR #1	Arsenic, Total Recoverable	<	0.2	mg/L	0.15	N/A	0.34	
3/26/14 6:45	AR #1	Cyanide, Total (as CN)		0.03	mg/L	0.022	1.36	0.022	1.36
3/26/14 6:45	AR #1	Aluminum		2.42	mg/L	0.75	3.23	None	
3/26/14 6:45	AR #1	Lead	<	0.02	mg/L	0.0816		0.082	
3/26/14 6:45	AR #1	Iron		6.45	mg/L	1	6.45	None	
3/26/14 6:45	AR #1	Magnesium		24.3	mg/L	0.064	379.69	None	
3/26/14 6:45	AR #1	Silver, Total Recoverable	<	0.01	mg/L	0.0038	N/A	0.0041	N/A
3/26/14 6:45	AR #1	Selenium	<	0.2	mg/L	0.005	N/A	None	
3/26/14 6:45	AR #1	Zinc		1.02	mg/L	0.12	8.50	0.12	8.50
3/26/14 6:45	AR #1	Mercury, Total Recoverable	<	0.002	mg/L	0.0014	N/A	None	
4/1/14 7:30	Armour #1	Electrical Conductivity @ 25 Deg. C	=	505	umhos/cm	200	2.53	None	

Exhibit 1

Stormwater Sampling Data for EDCO Armour Street Facility

Date/Time of Sample Collection	Sample Location	Parameter	Result Qualifier	Result	Units	Benchmark	Magnitude of Exceedance	WQO	Magnitude of Exceedance
4/1/14 7:30	Armour #1	Oil and Grease	=	22.4	mg/L	15	1.49	None	
4/1/14 7:30	Armour #1	Total Suspended Solids (TSS)	=	129	mg/L	100	1.29	None	
4/1/14 7:30	Armour #1	pH	=	7.47	SU	6.0-9.0		6.5-8.5	
4/1/14 7:30	Armour #1	Biological Oxygen Demand		58	mg/L	30	1.93	None	
4/1/14 7:30	Armour #1	Chemical Oxygen Demand		394	mg/L	120	3.28	None	
4/1/14 7:30	Armour #1	Ammonia, Total (as N)		3.35	mg/L	2.14	1.57	None	
4/1/14 7:30	Armour #1	Arsenic, Total Recoverable	<	0.2	mg/L	0.15	N/A	0.34	
4/1/14 7:30	Armour #1	Cyanide, Total (as CN)	<	0.02	mg/L	0.022		0.022	
4/1/14 7:30	Armour #1	Aluminum		3.55	mg/L	0.75	4.73	None	
4/1/14 7:30	Armour #1	Lead		0.03	mg/L	0.0816		0.082	
4/1/14 7:30	Armour #1	Iron		4.86	mg/L	1	4.86	None	
4/1/14 7:30	Armour #1	Magnesium		8.01	mg/L	0.064	125.16	None	
4/1/14 7:30	Armour #1	Silver, Total Recoverable	<	0.01	mg/L	0.0038	N/A	0.0041	N/A
4/1/14 7:30	Armour #1	Zinc		0.48	mg/L	0.12	4.00	0.12	4.00
4/1/14 7:30	Armour #1	Selenium	<	0.2	mg/L	0.005	N/A	None	
4/1/14 7:30	Armour #1	Mercury, Total Recoverable	<	0.002	mg/L	0.0014	N/A	None	
2014/2015 WET SEASON									
12/12/14 14:00	Arm #1	Ammonia, Total (as N)	=	0.597	mg/L	2.14		None	
12/12/14 14:00	Arm #1	Arsenic, Total Recoverable	< 0.1	ND	mg/L	0.15	N/A	0.34	
12/12/14 14:00	Arm #1	Cyanide, Total (as CN)	< 0.02	ND	mg/L	0.022		0.022	
12/12/14 14:00	Arm #1	Electrical Conductivity @ 25 Deg. C	=	318	umhos/cm	200	1.59	None	
12/12/14 14:00	Arm #1	Chemical Oxygen Demand		235	mg/L	120	1.96	None	
12/12/14 14:00	Arm #1	Iron, Total Recoverable	=	1.48	mg/L	1	1.48	None	
12/12/14 14:00	Arm #1	Lead, Total Recoverable	< 0.02	ND	mg/L	0.0816		None	
12/12/14 14:00	Arm #1	Mercury, Total Recoverable	< .001	ND	mg/L	0.0014	N/A	None	
12/12/14 14:00	Arm #1	Oil and Grease	=	28.2	mg/L	15	1.88	None	
12/12/14 14:00	Arm #1	Selenium, Total Recoverable	< .005	ND	mg/L	0.005		None	
12/12/14 14:00	Arm #1	**Silver, Total Recoverable**	< .01	ND	mg/L	0.0038	N/A	0.0041	N/A
12/12/14 14:00	Arm #1	Total Suspended Solids (TSS)	=	86	mg/L	100		None	
12/12/14 14:00		pH	=	8	SU	6.0-9.0		6.5-8.5	
5/8/15 8:45	Armour-1	Ammonia, Total (as N)	=	0.054	mg/L	2.14		None	
5/8/15 8:45	Armour-1	Arsenic, Total Recoverable	=	0.034	mg/L	0.15		0.34	
5/8/15 8:45	Armour-1	Cyanide, Total (as CN)	< 0.02	ND	mg/L	0.022		0.022	
5/8/15 8:45	Armour-1	Lead, Total	< 0.02	ND	mg/L	0.0816		None	
5/8/15 8:45	Armour-1	Mercury, Total Recoverable	< 0.001	ND	mg/L	0.0014		None	
5/8/15 8:45	Armour-1	Oil and Grease	=	20	mg/L	15	1.33	None	
5/8/15 8:45	Armour-1	Selenium, Total Recoverable	< 0.005	ND	mg/L	0.005		None	
5/8/15 8:45	Armour-1	Silver, Total Recoverable	< 0.01	ND	mg/L	0.0038	N/A	0.0041	N/A
5/8/15 8:45	Armour-1	Electrical Conductivity @ 25 Deg. C	=	143	umhos/cm	200		None	
5/8/15 8:45	Armour-1	Chemical Oxygen Demand		1820	mg/L	120	15.17	None	

Exhibit 1

Stormwater Sampling Data for EDCO Armour Street Facility

Date/Time of Sample Collection	Sample Location	Parameter	Result Qualifier	Result	Units	Benchmark	Magnitude of Exceedance	WQO	Magnitude of Exceedance
5/8/15 8:45	Armour-1	Total Suspended Solids (TSS)	=	1370	mg/L	100	13.70	None	
5/8/15 8:45	Armour-1	pH	=	7.58	SU	6.0-9.0		6.5-8.5	
2015/2016 WET SEASON									
7/19/15 3:40	#1 (SP1 as shown on 2015 SWPPP Site Map)	Oil and Grease	=	7.9	mg/L	15		None	
7/19/15 3:40	#1 (SP1 as shown on 2015 SWPPP Site Map)	Total Suspended Solids (TSS)	=	119	mg/L	100	1.19	None	
7/19/15 3:40	#1 (SP1 as shown on 2015 SWPPP Site Map)	pH	=	6.95	SU	6.0-9.0		6.5-8.5	
7/19/15 12:00	#2 (SP2 as shown on 2015 SWPPP Site Map)	pH	=	7	SU	6.0-9.0		6.5-8.5	
7/19/15 12:00	#2 (SP2 as shown on 2015 SWPPP Site Map)	Total Suspended Solids (TSS)	=	119	mg/L	100	1.19	None	
7/19/15 12:00	#2 (SP2 as shown on 2015 SWPPP Site Map)	Oil and Grease	=	26.9	mg/L	15	1.79	None	
9/15/15 11:05	SP1	Oil and Grease	=	8.1	mg/L	15		None	
9/15/15 11:05	SP1	Total Suspended Solids (TSS)	=	99	mg/L	100		None	
9/15/15 0:00		pH	=	4.9	SU	6.0-9.0		6.5-8.5	
9/15/15 0:00		pH	=	5.09	SU	6.0-9.0		6.5-8.5	
9/15/15 11:15	SP2	Total Suspended Solids (TSS)	=	110	mg/L	100	1.10	None	
9/15/15 11:15	SP2	Oil and Grease	=	15	mg/L	15		None	
1/5/16 10:35	SP1	Oil and Grease	=	8.6	mg/L	15		None	
1/5/16 10:35	SP1	Total Suspended Solids (TSS)	=	380	mg/L	100	3.80	None	
1/5/16 10:35	SP1	pH	=	7.1	SU	6.0-9.0		6.5-8.5	
1/5/16 12:50	SP2	Oil and Grease	=	41	mg/L	15	2.73	None	
1/5/16 12:50	SP2	Total Suspended Solids (TSS)	=	500	mg/L	100	5.00	None	
1/5/16 12:50	SP2	pH	=	4.1	SU	6.0-9.0	1.90	6.5-8.5	2.40
3/7/16 9:35	SP1	Oil and Grease	=	1.2	mg/L	15		None	
3/7/16 9:35	SP1	Total Suspended Solids (TSS)	=	220	mg/L	100	2.20	None	
3/7/16 9:35	SP1	pH	=	8.1	SU	6.0-9.0		6.5-8.5	
3/7/16 9:45	SP2	Oil and Grease	=	2.3	mg/L	15		None	
3/7/16 9:45	SP2	Total Suspended Solids (TSS)	=	110	mg/L	100	1.10	None	
3/7/16 9:45	SP2	pH	=	7.4	SU	6.0-9.0		6.5-8.5	
2016/2017 WET SEASON									
12/16/16 8:15	SP1	Oil and Grease	=	13	mg/L	15		None	
12/16/16 8:15	SP1	Total Suspended Solids (TSS)	=	130	mg/L	100	1.30	None	
12/16/16 8:15	SP1	pH	=	8.2	SU	6.0-9.0		6.5-8.5	
12/16/16 8:00	SP2	Oil and Grease	=	12	mg/L	15		None	

Exhibit 1

Stormwater Sampling Data for EDCO Armour Street Facility

Date/Time of Sample Collection	Sample Location	Parameter	Result Qualifier	Result	Units	Benchmark	Magnitude of Exceedance	WQO	Magnitude of Exceedance
12/16/16 8:00	SP2	Total Suspended Solids (TSS)	=	91	mg/L	100		None	
12/16/16 8:00	SP2	pH	=	7.9	SU	6.0-9.0		6.5-8.5	

Exhibit 2: Rain Data

Date	Inches
03/17/2012	0.35
03/18/2012	0.13
03/19/2012	0.13
03/25/2012	0.28
04/11/2012	0.12
04/13/2012	0.28
04/25/2012	0.36
04/26/2012	0.10
10/12/12	0.45
10/21/12	0.15
12/01/12	0.10
12/13/12	1.56
12/15/12	0.20
12/24/12	0.12
12/30/12	0.12
01/07/13	0.17
01/25/13	0.39
01/26/13	0.57
02/08/13	0.18
02/20/13	0.31
03/07/13	0.18
03/08/13	1.04
05/06/13	0.20
10/29/13	0.17
11/22/13	1.37
12/07/13	0.10
12/19/13	0.25
02/07/14	0.26
02/27/14	0.12
02/28/14	0.40
03/01/14	1.01
03/02/14	0.24
04/02/14	0.22
04/26/14	0.17
11/01/14	0.25
12/03/14	0.66
12/04/14	1.85
12/12/14	1.05
12/16/14	0.32
12/17/14	0.52
01/11/15	0.20

Exhibit 2: Rain Data

Date	Inches
01/12/15	0.17
02/23/15	0.18
03/01/15	0.75
03/02/15	0.26
05/08/15	0.50
05/15/15	1.61
07/18/15	1.03
07/20/15	0.20
09/15/15	1.15
10/04/15	0.14
10/05/15	0.27
11/03/15	0.13
11/04/15	0.99
11/27/15	0.19
12/11/15	0.19
12/14/15	0.16
12/20/15	0.11
12/22/15	0.19
12/29/15	0.19
01/04/16	0.12
01/05/16	0.73
01/06/16	1.12
01/07/16	0.92
01/31/16	0.18
03/06/16	0.12
03/07/16	0.17
03/08/16	0.27
03/12/16	0.15
04/07/16	0.27
04/10/16	0.18
05/06/16	0.43
09/20/16	0.10
09/21/16	0.21
11/21/16	0.23
11/26/16	0.11
11/27/16	0.17
12/16/16	1.32
12/22/16	0.98
12/23/16	0.11
12/24/16	0.61
12/30/16	0.28

Exhibit 2: Rain Data

Date	Inches
12/31/16	0.23
01/01/17	0.68
01/09/17	0.18
01/12/17	0.15
01/13/17	0.50
01/19/17	0.19
01/20/17	0.99
01/21/17	0.15
01/23/17	0.50
01/24/17	0.12
02/07/17	0.13
02/18/17	1.11
02/27/17	1.36
02/28/17	0.99